



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2009 REGULAR SESSION

HOUSE BILL NO. 489

AS ENACTED

FRIDAY, MARCH 13, 2009

RECEIVED AND FILED
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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

AN ACT relating to child medical support.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 ➔ Section 1. KRS 403.211 is amended to read as follows:

- 2 (1) An action to establish or enforce child support may be initiated by the parent,
3 custodian, or agency substantially contributing to the support of the child. The
4 action may be brought in the county in which the child resides or where the
5 defendant resides.
- 6 (2) At the time of initial establishment of a child support order, whether temporary or
7 permanent, or in any proceeding to modify a support order, the child support
8 guidelines in KRS 403.212 shall serve as a rebuttable presumption for the
9 establishment or modification of the amount of child support. Courts may deviate
10 from the guidelines where their application would be unjust or inappropriate. Any
11 deviation shall be accompanied by a written finding or specific finding on the
12 record by the court, specifying the reason for the deviation.
- 13 (3) A written finding or specific finding on the record that the application of the
14 guidelines would be unjust or inappropriate in a particular case shall be sufficient to
15 rebut the presumption and allow for an appropriate adjustment of the guideline
16 award if based upon one (1) or more of the following criteria:
- 17 (a) A child's extraordinary medical or dental needs;
- 18 (b) A child's extraordinary educational, job training, or special needs;
- 19 (c) Either parent's own extraordinary needs, such as medical expenses;
- 20 (d) The independent financial resources, if any, of the child or children;
- 21 (e) Combined monthly adjusted parental gross income in excess of the Kentucky
22 child support guidelines;
- 23 (f) The parents of the child, having demonstrated knowledge of the amount of
24 child support established by the Kentucky child support guidelines, have
25 agreed to child support different from the guideline amount. However, no

1 such agreement shall be the basis of any deviation if public assistance is being
 2 paid on behalf of a child under the provisions of Part D of Title IV of the
 3 Federal Social Security Act; and

4 (g) Any similar factor of an extraordinary nature specifically identified by the
 5 court which would make application of the guidelines inappropriate.

6 (4) "Extraordinary" as used in this section shall be determined by the court in its
 7 discretion.

8 (5) When a party has defaulted or the court is otherwise presented with insufficient
 9 evidence to determine gross income, the court shall order child support based upon
 10 the needs of the child or the previous standard of living of the child, whichever is
 11 greater. An order entered by default or due to insufficient evidence to determine
 12 gross income may be modified upward and arrearages awarded from the date of the
 13 original order if evidence of gross income is presented within two (2) years which
 14 would have established a higher amount of child support pursuant to the child
 15 support guidelines set forth in KRS 403.212.

16 (6) The court shall allocate between the parents, in proportion to their combined
 17 monthly adjusted parental gross income, reasonable and necessary child care costs
 18 incurred due to employment, job search, or education leading to employment, in
 19 addition to the amount ordered under the child support guidelines.

20 (7) (a) If private health care insurance coverage is reasonable in cost and accessible
 21 to either parent~~[available]~~ at the time the request for coverage is made, the
 22 court shall order the parent to obtain or maintain coverage and the court
 23 shall allocate between the parents, in proportion to their combined monthly
 24 adjusted parental gross income, the cost of health care insurance coverage for
 25 the child, in addition to the support ordered under the child support guidelines.

26 (b) A parent, who has one hundred percent (100%) of the combined monthly
 27 adjusted parental gross income, shall be entitled to a reduction in gross

1 income of the entire amount of premiums incurred and paid.

2 (c) The court shall order the cost of health care of the child to be paid by either or
3 both parents of the child regardless of who has physical custody. The court
4 order shall include:

5 1. A judicial directive designating which parent shall have financial
6 responsibility for providing health care for the dependent child, which
7 shall include but not be limited to private health care insurance
8 coverage, payments of necessary health care deductibles or
9 copayments;~~[and]~~

10 2. If appropriate, cash medical support. "Cash medical support" means
11 an amount to be paid toward the cost of health care insurance
12 coverage that is provided by a public entity, including the Kentucky
13 Children's Health Insurance program or the Kentucky Medicaid
14 program, or another parent or person with whom the child resides
15 through employment or otherwise, fixed payments for ongoing
16 medical costs, extraordinary medical expenses, or any combination
17 thereof; and

18 3. A statement providing that if the designated parent's health care
19 coverage provides for covered services for dependent children beyond
20 the age of majority, then any unmarried children up to twenty-five (25)
21 years of age who are full-time students enrolled in and attending an
22 accredited educational institution and who are primarily dependent on
23 the insured parent for maintenance and support shall be covered.

24 (d) If private health care insurance coverage is not reasonable in cost and
25 accessible~~[available]~~ at the time the request for the coverage is made, the
26 court order shall provide for cash medical support until private health care
27 insurance coverage~~[at the time it]~~ becomes reasonable in cost and

1 accessible[available].

2 (8) (a) For purposes of this section, "reasonable in cost" means that the cost of
 3 coverage to the responsible parent does not exceed five percent (5%) of his
 4 or her gross income. The five percent (5%) standard shall apply to the cost
 5 of adding the child to an existing policy, the difference in the cost between a
 6 single and a family policy, or the cost of acquiring a separate policy to cover
 7 the child. If the parties agree or the court finds good cause exists, the court
 8 may order medical coverage in excess of five percent (5%) of the parent's
 9 gross income.

10 (b) For purposes of this section, "accessible" means that there are providers
 11 who meet the health care needs of the child and who are located no more
 12 than sixty (60) minutes or sixty (60) miles from the child's primary
 13 residence, except that nothing shall prohibit use of a provider located more
 14 than sixty (60) minutes or sixty (60) miles from the child's primary
 15 residence; and

16 (9) The cost of extraordinary medical expenses shall be allocated between the parties in
 17 proportion to their combined monthly adjusted parental gross incomes.
 18 "Extraordinary medical expenses" means uninsured expenses in excess of one
 19 hundred dollars (\$100) per child per calendar year. "Extraordinary medical
 20 expenses" includes but is not limited to the costs that are reasonably necessary for
 21 medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for
 22 professional counseling or psychiatric therapy for diagnosed medical disorders; and
 23 for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic
 24 services.

25 ~~(10)~~[(9)] The court order shall include the Social Security numbers, provided in
 26 accordance with KRS 403.135, of all parties subject to a support order.

27 ~~(11)~~[(10)] In any case administered by the Cabinet for Health and Family Services, if the

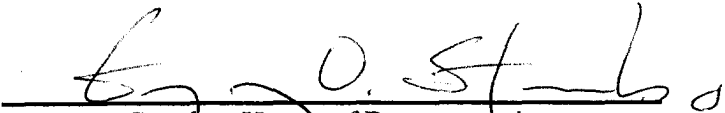
parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for Health and Family Services may, upon application, enroll the child.

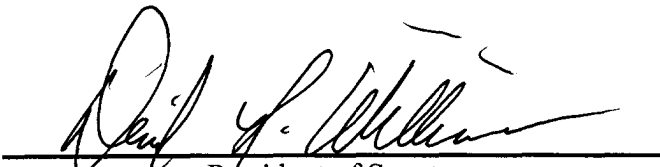
~~(12)~~~~(11)~~ In any case administered by the cabinet, information received or transmitted shall not be published or be open for public inspection, including reasonable evidence of domestic violence or child abuse if the disclosure of the information could be harmful to the custodial parent or the child of the parent. Necessary information and records may be furnished as specified by KRS 205.175.

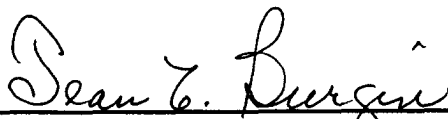
~~(13)~~~~(12)~~ In the case in which a parent is obligated to provide~~noncustodial parent provides~~ health care insurance coverage, and changes employment, and the new employer provides health care insurance coverage, the Cabinet for Health and Family Services shall transfer notice of the provision for coverage for the child to the employer, which shall operate to enroll this child in the obligated~~noncustodial~~ parent's health plan, unless the obligated~~noncustodial~~ parent contests the notice as specified by KRS Chapter 13B.

~~(14)~~~~(13)~~ Notwithstanding any other provision of this section, any wage or income shall not be exempt from attachment or assignment for the payment of current child support or owed or to-be-owed child support.

~~(15)~~~~(14)~~ A payment of money received by a child as a result of a parental disability shall be credited against the child support obligation of the parent. A payment shall not be counted as income to either parent when calculating a child support obligation. An amount received in excess of the child support obligation shall be credited against a child support arrearage owed by the parent that accrued subsequent to the date of the parental disability, but shall not be applied to an arrearage that accrued prior to the date of disability. The date of disability shall be as determined by the paying agency.


Speaker-House of Representatives


President of Senate

Attest: 
Chief Clerk of House of Representatives

Approved 
Governor

Date March 24, 2009